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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of:

Petition of LCI International Telecom Corp.  
for Declaratory Ruling Concerning Bell  
Operating Company Entry into In-Region  
Long Distance Markets

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) CC Docket No. 98-5  
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TO: The Commission:

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COMMENTS OF CAMPAIGN FOR TELECOMMUNICATIONS ACCESS

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David J. Newburger  
Newburger & Vossmeier  
Counsel for Campaign for  
Telecommunications Access  
One Metropolitan Square, Suite 2400  
St. Louis, Missouri 63102  
Voice/TDD: 314/436-4300  
Telecopier: 314/436-9636

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## Introduction

The Campaign for Telecommunications Access (the Campaign) is composed of Aging Forum, Inc., College for Living, Missouri Alliance of Area Agencies on Aging, Missouri Association for the Deaf, Missouri Council of the Blind, National Silver Haired Congress, Presidents' Club for Telecommunications Justice, and Paraquad, the latter being the independent living center located in St. Louis, Missouri, that assists people with all kinds of disabilities to integrate fully into society. The Campaign is an outgrowth of the Consumer Interest Intervenors intervention in the judicial review of the Commission's Interconnection Order, FCC Docket No. 96-98 (Aug. 8, 1996) *modified by* Order on Reconsideration (Sept. 27, 1996). *Iowa Utility Board v. FCC*, 120 F.3d 753 (8th Cir. 1997), *cert. pending*.

The participants in the Campaign are leaders and organizations that are substantially run, respectively, by older adults and people with disabilities and devoted to ensuring that older adults and people with disabilities--and all citizens for that matter--have the opportunity to live independent, productive lives and have the accommodations that allow them to be as fully integrated into the community as possible. The Campaign works to assure that new telecommunications technologies will be available to, usable by, and affordable for all citizens, regardless of where they live and regardless of what disability or other condition they may have that is a barrier to their using some kinds of equipment.

New telecommunications technology, when fully distributed to the citizenry and usable by and affordable for all, promises numerous new ways for older adults and

people with disabilities--and all other citizens--to maintain their independence and lead productive lives. The issue of what telecommunications services will be available, usable, and affordable affect a considerable portion of the Nation. The conservative estimate is that 15 percent of Americans have disabilities. H. Kaye, *Disability Watch: The Status of People with Disabilities in the United States* 11 (1997). That estimate is in part based on 1992 U.S. Census figures, which shows that 49 million people in America had disabilities in 1992. President's Committee on Employment of People with Disabilities, *Profit from our Experience* (Oct. 1995). Only 31 percent of people with disabilities from ages 16 to 64 had jobs in 1994, while some 79 percent of people with disabilities who were not working wanted to work. *Id.*; National Organization on Disability, *Report* (Fall 1994). Among many other reasons given, 38 percent said they do not have necessary education, training, or skills to get a job and 28 percent lacked accessible transportation.

Meanwhile, all demographic studies show that the older adult population is the fastest growing population in America. There were 33.2 million Americans older than 64 in 1994; 70 million are projected to be in that category by 2030. AARP, *A Profile of Older Americans: 1995*. And studies show these people are under served. For example, a Missouri study of the needs of older adults showed among other things that 67 percent of older Missourians who perceive a need for information services do not get it, 59 percent who perceive a need for elderly care information do not get it, 37 percent who perceive a need for transportation services do not get them. Missouri

Department of Social Services, Division of Aging, *Needs Assessment Study, 1994*  
*Statewide Report.*

The promise of present and future telecommunications very much affects the lives and independence of people with disabilities and older adults. Consider, for example, today's telecommunications technologies. Such things as Caller ID screens allow a deaf person to know who is calling even if the caller does not have the sense or knowledge to use a TDD or the Relay Service to call the deaf person. The deaf person can view the screen, return the call via the Relay Service if he or she wants, and complete a communication that would have been impossible before the introduction of that technology.

Consider, for example, the health and safety we entrust to the telecommunications systems. We assume a 911 call, or burglar alarm call to a monitor, or call to a medical care monitor will virtually always go through and go through the first time. Older adults live in their homes longer today, rather than moving into nursing homes, because they can rely on the telephone to call for help when they need it. The same is true of many people with disabilities.

Future telecommunications technology foretells even greater promise. Many of the problems people with disabilities and older adults face with obtaining education, transportation, jobs, health care, and other services will be assuaged or eliminated by the advanced telecommunications technologies that Congress encouraged in enacting the Act. Consider a few. Telecommuting will allow people with transportation problems to stay in their homes and neighborhoods and work anywhere in the world. Tele-

medicine will allow people to remain home and independent even if they live some distance from their doctors. Distance learning will allow students to attend the university from their living rooms. People who lack the physical strength to pick up a book will be able to read books located around the world with the punch of a button.

Videoconferencing will allow deaf people to sign to one another. It will allow deaf students to attend any class and obtain deaf interpretation through a screen in the classroom and a remote interpreter located miles away. It will allow grandparents to watch their grandchildren grow even though they may live a continent or more apart.

The examples are inexhaustible. The fundamental fact is that advanced telecommunications technology will overcome serious transportation and communications barriers that today keep some people from being educated, trained, cared for, employed, out of nursing homes, and integrated into their communities.

But, all these advances will only work if that advanced technology comes to all people with disabilities, older adults, and all Americans. Therefore, the Campaign's foremost concern in the telecommunications re-regulation that has gone on over the past several years is this: Does each proposal guarantee that advanced technologies will reach, and current technologies will continue to reach, our constituents--geographically, technologically, and affordably--even though our constituents are spread all over America?

We measure the LCI proposal according to whether it supports that end. We believe the proposal does not. We fear the proposal will inhibit universal spread of advanced technologies. We fear it even could risk the excellent telecommunications

technologies already available. We think the Commission should be extremely cautious in responding to the proposal.

For purposes of these comments, the Campaign presents three essential realities that we suggest dictate that the Commission should reject the LCI petition: First, the proposal would prohibit some opportunities for introducing advanced technologies. Second, the proposal would add further burdens to already existing disincentives to bringing affordable and usable new technologies to people with disabilities and older adults wherever they live, and it may even foster a decline in service using existing technologies. Third, the proposal has the effect of being a charade that would divert Commission and state commission resources from the work already going on to reconfigure the industry. We will take each in order.

### **1. The Proposal Would Prohibit Some Opportunities for Introducing Advanced Technologies.**

The advanced technologies that people with disabilities and older adults look forward to may work at the end of the network or may be included within the network. Scientific development and economics of product or service deployment will dictate the answer.

For example, and among other possibilities, the real time video technology that will allow remote deaf interpretation may be accomplished by expanding investment in broader band capacity, by improving compression technology, or by some combination of the two. Increasing broad band capacity implies further upgrading networks.

Improving compression technology implies putting advanced devices (or software) at the respective termination points in retail products.

From the point of view of fostering the best development of new technologies, the Campaign encourages technological development on all fronts. The LCI proposal *expressly* constrains that:

However, NetCo would not be permitted to add customers, nor would it be permitted to add new retail services or actively market retail services to [its local customer] base.

LCI Proposal at 15. Moreover, the network would be barred from creating new retail products. Thus, LCI would take network improvement out of the possible means for bringing out an advanced technology that the Campaign's constituents need. That would be wrong public policy from our perspective.

The Nation's existing networks are the Campaign's best hope. If all innovation is pushed into the hands of service providers who do not own networks, the service providers will have no incentive to introduce new products and services universally and affordably. They will be encouraged to concentrate on the high end, high profit customers that competitive local telephone companies are doing today.

As things stand now, the existing telephone companies at least have the network to consider. When they make services available somewhere, they have customer pressure and other incentives to rollout the new technology network-wide. LCI's proposal would eliminate that incentive and even bar the network operator from innovating. The proposal works directly against the goal of guarantying that advanced

technologies will reach the Campaign's constituents--geographically, technologically, and affordably--even though they are spread all over America.

**2. The LCI Proposal Would Add Further Burdens to Already Existing Disincentives to Bringing Affordable and Usable New Technologies to People with Disabilities and Older Adults Wherever They Live; It May Even Foster a Decline in Service Using Existing Technologies.**

A freestanding network company that only sells to retail providers and that is regulated as telephone companies have been historically--the lot suggested for such companies by the LCI proposal--would have precious little incentive to innovate. Sure, it would want to maintain its facilities in good working order. But as things look now, it would have little competition to face in the geographical parts of the network that do not generate high profits. It would presumably face competition from facilities-based competitors in high profit market segments, though that is not totally assured, but those competitors have no interest or obligation to spread their products and services throughout America.

Couple that with the problem that the Commission has adopted TELRIC cost standards. Presumably, LCI would have the Commission and state commissions price network services based upon that standard. In the Campaign's view, that standard does not appear to cover the imbedded costs for operating the networks. Moreover, indisputably, that standard forces network prices down across the network if the network operator introduces more cost efficient innovations anywhere on the network. As such, coupling the LCI proposal with current Commission policies would dry up the financial vitality of the network owner, resulting in the risk of reductions in the quality of

service over the network and certainly lags in the introduction of the much hoped for advanced technologies.

The Campaign's constituents are everywhere. High profit market segments are definable and separable from the rest of the market. If the customers in those segments are separated from the whole market and served by competitors and LCI's so-called "ServeCos," the Campaign's constituents risk becoming the second-rate customers of a second-rate network.

LCI does not care because it does not particularly want to serve these customers anyway. The Bell operating companies care, because they have a major investment networks as well as a tradition of service to all. They want to make money on that investment. But, if that network investment is shorn away from their other activity, there is significant risk that it will wither while the Bell operating companies' "ServeCos" copy LCI's and the other competitors' indifference.

Breaking up the network function of the Bell operating companies from the service function:

- (i) risks cutting off the Bell operating companies' interest in serving all including low profit customers including those who are older, rural, have disabilities, and so forth;
- (ii) risks creating network companies that are not even fully compensated for their services;
- (iii) risks forcing deterioration of the high quality networks that already exist everywhere;

(iv) risks eliminating the benefits of the synergies for innovation that might come from having the networks and service providers integrated; and

(v) risks retarding the process by which all Americans will be able to use the advanced technologies that improve their lives and independence.

The proposal is a bad idea.

### **3. The Proposal Has the Effect of Being a Charade That Would Divert Commission and State Commission Resources from the Work Already Going on to Reconfigure the Industry.**

LCI seems to assume, for example, that the Bell operating companies are engaged in an extensive charade designed to foist inferior operations support systems on competitors. Their proposal they say is to obviate that problem.

But it is hard to know if that problem really exists. The Bell operating companies might be moving as fast as possible to make the operations support systems available to competitors as good as possible in order to get into the long distance business as soon as possible. We consider that the more likely probability. As far as we can tell, they may even be approaching success in that arena. If so, competitors are about to have good operations support systems, and Bell operating companies are about to clear another barrier to entering the long distance business.

But LCI's approach is to assume the Bell operating companies are really out to do evil. What if one makes a similar assumption about LCI? What if LCI was looking for a proposal whose sole benefit was to slow down the process of allowing Bell operating companies to enter the long distance business?

Might it not put forth a proposal exactly like the one posed here: a proposal for a radically different regulatory regime for how local telephone companies might get into long distance. If it could make such a proposal plausible, it might be able to divert FCC's and state commission's resources from the well underway process of opening Bell operating companies up to competition and ultimately allowing them into long distance. Such a proposal would create a thousand new legal and technical issues to fight over, opening channels for new proceedings and litigations. And all the while, it would be deferring the process envisioned by the 1996 Act.

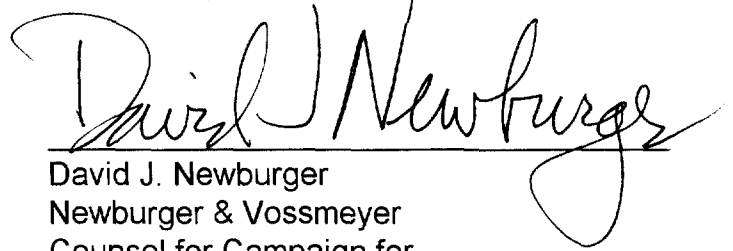
LCI's constant refrain that its proposal is the "Fast Track" proposal, its repeated use of pronouns "soon," "quickly," "rapid," and so forth suggest an old comment, to paraphrase the Bard, LCI doth protest too much, methinks. Is LCI simply trying to slow down Bell operating company entry into the long distance markets? If one believe Bell operating company entry into those markets will be bringing down long distance rates, as the Campaign does, then we cannot look very favorably on this apparent stratagem.

LCI might respond that it is not intending to slow anything down. After all, it has presented the proposal as an "optional . . . path" that the Bell companies can take or leave. If so, then only those Bell operating companies who want would seem to be involved. Yet, LCI has apparently not secured the interest of any Bell operating company in this proposal. Why would the Commission undertake a proceeding to establish a path that none of the Bell operating companies will select? The cost in resources would be considerable. It appears to us that the proposal may simply be a not very veiled effort at "capture" the agency for LCI's own purposes.

## Conclusion

In light of the foregoing observations, it appears that the LCI proposal would work against the interests of older adults, people with disabilities, and many other Americans who do not happen to have the luxury of richly placed in the telecommunications networks. For that reason, the Campaign respectfully suggests the Commission should reject the proposal.

Respectfully submitted,

A handwritten signature in black ink, reading "David J. Newburger". The signature is fluid and cursive, with a large, sweeping "D" and "N".

David J. Newburger  
Newburger & Vossmeier  
Counsel for Campaign for  
Telecommunications Access  
One Metropolitan Square, Suite 2400  
St. Louis, Missouri 63102  
Voice/TDD: 314/436-4300  
Telecopier: 314/436-9636